

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

SHERRI L. DAVIS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	CASE NO. 2:06-CV-187-WKW
)	
TMA FOREST PRODUCTS GROUP, et al.)	
)	
Defendants.)	

ORDER

This cause is before the Court on Plaintiffs' Motion to Remand (Doc. # 13). Upon consideration of the arguments, relevant law, and evidentiary submissions of the parties, the Court finds that:

(1) The Court has jurisdiction of this action in diversity under 28 U.S.C. § 1332 and § 1367;

(2) Defendant D & D Lumber Company, Inc., doing business as Lockhart Lumber Company, is fraudulently joined, as it is uncontroverted that said Defendant never controlled, operated, owned, or managed the site from which the allegations in this action arise, *see generally Legg v. Wyeth*, 428 F.3d 1317 (11th Cir. 2005);

(3) The "common defense" issue is moot in view of the existence of complete diversity.

For the foregoing reasons, it is ORDERED that the Motion to Remand (Doc. # 12) is DENIED.

DONE this the 12th day of May, 2006.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE

